



ipid

Department:
Independent Police Investigative Directorate
REPUBLIC OF SOUTH AFRICA

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MEMORANDUM

TO : THE OFFICE OF THE PUBLIC PROTECTOR
MS THULI MADONSELA

FROM : MR AMAR MAHARAJ (ETHICS MANAGER, IPID)

DATE : 18 AUGUST 2016

SUBJECT : REQUEST FOR INVESTIGATION

Dear Ms Madonsela,

RE: REQUEST FOR INVESTIGATION PERTAINING TO MATTERS OUTLINED BELOW

- Whistleblower report of cases completed without proper investigation at Mpumalanga Province, and failure of the [REDACTED] and Acting Executive Director, Mr. KI Kgamanyane to take action and to resolve the matter within a reasonable period of time.
- Cases closed as unsubstantiated, and cases completed at the IPID without proper investigation at the following provinces:
 - I. Free State
 - II. Mpumalanga
 - III. Northern Cape
 - IV. Eastern Cape
 - V. Limpopo
 - VI. North West

Annexures:

Annexure A. Memo to Acting Executive Director, Mr KI Kgamanyane dated 29 January 2016.

Attached herein as Annexure A is the file including the Memo to the Acting Executive Director, Mr KI Kgamanyane, dated January 2016 which contains the list of cases completed by Mpumalanga, [REDACTED] without proper investigation.

1. Please accept this report as a disclosure in terms of the Protected Disclosures Act, 26 of 2000:
 - I. I make this report to your office in good faith and in my capacity as Ethics Manager at the Independent Police Investigative Directorate (IPID). I am based at the National Office in Pretoria. My office, the Ethics Office, is responsible for the management of ethics and promotion of ethical principles and Values at the IPID. Officials across the IPID are encouraged to make reports of fraud and corruption, and irregular and unlawful conduct to my office in terms of established Fraud Prevention and Whistle-blowing policies.
 - II. This report focuses on two major matters as outlined above. **The first relates to a whistleblower report of cases completed without proper investigation at the Mpumalanga provincial office, and the failure of the [REDACTED], and Acting Executive Director, Mr. Kl Kgamanyane, to take action and resolve the matter within a reasonable time.** I sent a Memo on the matter to the Acting Executive Director on 29 January 2016, and I am of the understanding that no action has been taken to address the matter. Moreover, I am of the view that I too am being subjected to occupational detriment. I was told by the Acting Executive Director last week that in terms of current restructuring, to think about being moved from my office as Ethics Manager and transferred to another component unrelated to Ethics and Governance. I was informed that a junior official is to hold my current position. *(My office has also recently dealt with a serious fraud matter wherein I recommended the suspension of senior SMS members and that the matter be reported to the South African Police Services).* The Acting Executive Director had also informed me that he does not hold the view that the department needs a strong separate governance unit as “all managers should be responsible for governance”.
 - III. **The second matter relates to reports of cases closed as unsubstantiated, withdrawn or declined, and cases completed at the IPID without proper investigation at the following provinces: Free State; Mpumalanga; Northern Cape; Eastern Cape; Limpopo and the North West. The majority of the cases involve assaults by members of the South African Police Service (SAPS). The total number of cases involved is unprecedented for a police oversight department in a democratic country. The data is set out below.**
 - IV. In both the above matters the impropriety is serious, is continuing and is likely continue in the future if not addressed. Both matters are also in the public interest.

- V. Further, both matters above concern a criminal offence and illustrate that a person has failed, is failing or is likely to fail to comply with their legal obligations to which that person is subject.
- VI. The matter above relating to cases closed as unsubstantiated during the 2013-2014 period at the Free State provincial office directly involves the current Acting-Executive Director, Mr KI Kgamanyane who was the Provincial Head at the IPID Free State Office at the time. During the 2013-2014 period the Free State IPID office closed a total of 780 cases. **91.79% or 716 cases, were closed as unsubstantiated (559), withdrawn (116) and declined (41), - the majority allegedly without proper investigation. Of the 969 cases recorded as 'Total Workload' in the Free State for the period 2013-2014, 930 cases were completed. A percentage completion rate of 96%. The number of assault cases completed was recorded as 761 – many without proper investigation.**
- VII. **I am of the view that because of the seriousness of the alleged impropriety at the Free State, Mpumalanga, Northern Cape, Eastern Cape, Limpopo and the North West, the Office of the Public Protector conduct an investigation into the matters highlighted above.**
- VIII. Based on reports made to my office I have provided statistical data relating to cases closed and completed at the above mentioned provinces hereunder for your ease of reference.
- IX. I have been advised by the officials who made the disclosure regarding the Free State cases, that there may be a conflict of interest with investigators from the Public Protector's office in any investigation because they have a social relationship with the IPID investigators and also play soccer together. I recommend that investigators from the Public Protector national office conduct the IPID Free State investigations.
2. The Ethics Office had initially received a report from an Investigator based at Mpumalanga province, detailing dozens of cases, including case file numbers, of assault, attempted murder, torture and murder which had been allegedly completed without proper investigation. The cases were allegedly completed without proper investigation by [REDACTED] who is based at the Mpumalanga Office.

3. Following an extensive examination of the cases provided by the investigator, including obtaining detailed summaries of the cases reported as completed, I established that the allegations were substantially true and that the cases were indeed completed without proper investigation. I accepted the disclosure from the Investigator as a protected disclosure in terms of the Protected Disclosures Act, 26 of 2000 and duly informed the investigator of such acceptance.
4. Following numerous reports of occupational detriment, which included intolerable work conditions, harassment and victimization, reported to my office during the period 2015 by the whistle-blower- including a report of [REDACTED] openly carrying his firearm on his side to intimidate investigators, I had numerous discussions with the [REDACTED] [REDACTED] who dismissed the reports of the whistle-blower as a Labour Relations matter and was of the view that the investigator “could get into a lot of trouble for making such reports”.
5. In late December 2015, after receiving a report from the whistle-blower that the Director Investigations, [REDACTED] had instructed the whistle-blower not to continue with his duties and responsibilities as an investigator and to be desk bound at the office, I reported the matter directly to the Acting Executive-Director, Mr KI Kgamanyane in January 2016.
6. In my Memo to the Acting Executive Director, I included an official request that the irregular and unlawful conduct of the [REDACTED], on this matter, and other matters as detailed in my Internal Memo, be investigated.
7. To date (18 August 2016), I have received no formal feedback on this matter from the Acting Executive Director, other than an acknowledgement of receipt of my Memo. However, during an informal meeting with the Executive Director last week I reminded him of my Memo and that I am still awaiting a response from him.
8. During my informal meeting on 11 August 2016 with the Acting Executive Director, I informed him that my Office (Ethics Office) had been receiving numerous complaints from Investigators and members of Senior Management regarding cases completed and/or closed without proper investigation. I also informed him that I was in the process of completing a report on the allegations.

9. I further informed the Acting-Executive Director of a meeting that I had with the [REDACTED] [REDACTED] wherein I informed her of numerous reports made to the Ethics Office of cases completed or closed without proper investigation and that I would be preparing a report on the matter. [REDACTED] had informed me during the meeting that *the matter of the closure of cases without proper investigation was not a governance matter*. She attempted to open her cellphone to show me a definition of corporate governance to justify her view. I declined to view a definition of Corporate Governance on her cellphone.
10. The closure of cases as unsubstantiated and without proper investigation, and the completion of cases without proper investigation is a contravention of the IPID Act, No.1 of 2011, and is a criminal offence which warrants the criminal charge of, amongst others, defeating the ends of justice.
11. The IPID Act gives effect to the provision of section 206(6) of the Constitution, ensuring independent oversight of the South African Police (SAPS), and the Municipal Police Services (MPS).

In terms of Section 28(1) of the IPID Act, the Directorate **must** investigate:

- (a) Any deaths in police custody;
- (b) Deaths as a result of police action;
- (c) Complaints relating to the discharge of an official firearm by a police officer;
- (d) Rape by a police officer, whether a police officer is on or off duty;
- (e) Rape of any person in police custody;
- (f) **Any complaint of torture or assault against a police officer in the execution of his or her duties;**
- (g) Corruption matters within the police initiated by the Executive Director, or after a complaint by a member of the public or referred to the Directorate by the Minister, a MEC, or the Secretary for the Police Service;
- (h) Any other matter referred to the IPID as result of a decision by the Executive Director or if so requested by the Minister, an MEC OR THE Secretary for the police service as the case may be.

B. ALLEGATIONS OF CASES CLOSED AS UNSUBSTANTIATED, AND CASES COMPETED WITHOUT PROPER INVESTIGATION AT VARIOUS PROVINCES, INCLUDING,

MPUMALANGA, FREE STATE, NORTHERN CAPE, EASTERN CAPE, LIMPOPO AND NORTH WEST.

1. Following the case to the Mpumalanga whistle-blower, the Ethics Office had received numerous reports from concerned officials who have reported allegations of cases being completed and/or closed without proper investigation at various provinces, including, Mpumalanga, Free State, Northern Cape, Eastern Cape, Limpopo and the North West.
2. I have intentionally kept the names of all officials confidential and have not submitted them to the [REDACTED] for fear of their personal safety and well-being. I have no doubt that because of their allegations, imminent personal harm or occupational detriment would be certain to them.
3. The allegations of cases completed or closed as unsubstantiated at the Free State province have a direct bearing on the objectivity, integrity and the moral leadership of the current, Acting Executive Director, Mr KI Kgamanyane, who was the Provincial Head of the Free State at the time. If the allegations are proven, it will constitute unlawful and irregular conduct and gross dereliction of duty.

4. DATA RELATING TO CASES COMPLETED OR CLOSED AS UNSUBSTANTIATED OR DECLINED, WITHOUT PROPER INVESTIGATION AT MPUMALANGA, FREE STATE, NORTHERN CAPE, EASTERN CAPE, LIMPOPO AND NORTH WEST.

*Source IPID Annual Reports 2013-2014, and 2014-2015

1. A) Free State – *Closed Cases

*Source: IPID Annual Reports 2013/2014, and 2014/2015.

2013/2014

2014/2015

Total Cases Closed	780	295
Total number of cases closed as unsubstantiated	559	80
Total number of cases withdrawn	116	16
Total Declined	41	122
Total number of Cases Withdrawn, Closed as Unsubstantiated and Declined	716	218
Percentage of cases closed as unsubstantiated, withdrawn and declined.	91.79%	73.89%

(B) Free State –*Completed Cases

***Source IPID Annual Reports 2013-2014, and 2014-2015. 'Completion of cases refers to an investigation where the IPID has done everything within its ability to obtain evidence in order to make recommendations (criminal and disciplinary) on the case.**

Free State Province

2013-2014

2014-2015

Total Workload	969	815
Total Cases Completed	930	742
Percentage of Cases Completed	96%	91%

2. Mpumalanga- (A) *Closed Cases

***Source: IPID Annual Reports 2013/2014, and 2014/2015.**

2013-2014

2014-2015

Total Cases Closed	158	639
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Total number of cases withdrawn	1	108
Total number of cases closed as unsubstantiated	149	145
Total Declined	6	283
Total number of Cases Withdrawn, Closed as Unsubstantiated and Declined	156	536
Percentage of cases closed as withdrawn, unsubstantiated, withdrawn and declined.	98%	83.88%

(B) Mpumalanga *Completed Cases.

***Source IPID Annual Reports 2013-2014, and 2014-2015. 'Completion of cases refers to an investigation where the IPID has done everything within its ability to obtain evidence in order to make recommendations (criminal and disciplinary) on the case.**

Mpumalanga Province

2013-2014

2014-2015

Total Workload	474	607
Total Cases Completed	310	398
Percentage of Cases Completed	65%	66%

3. Northern Cape –(A) *Closed Cases *Source: IPID Annual Reports 2013/2014, and 2014/2015.

2013-2014

2014-2015

Total Cases Closed	303	254
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Total number of cases closed as unsubstantiated	130	40
Total number of cases withdrawn	13	12
Total Declined	142	179
Total number of Cases Withdrawn, Closed as Unsubstantiated and Declined	285	231
Percentage of cases closed as unsubstantiated, withdrawn and declined.	94%	90.94%

(B) ***Completed Cases. Northern Cape**

***Source IPID Annual Reports 2013-2014, and 2014-2015. 'Completion of cases refers to an investigation where the IPID has done everything within its ability to obtain evidence in order to make recommendations (criminal and disciplinary) on the case.**

Northern Cape Province

2013-2014

2014-2015

Total Workload	321	367
Total Cases Completed	279	359
Percentage of Cases Completed	87%	98%

4. **Limpopo. (A)*Closed Cases***Source: IPID Annual Reports 2013/2014, and 2014/2015.

2013-2014

2014-2015

Total Cases Closed	125	183
Total number of cases closed as unsubstantiated	30	14
Total number of cases withdrawn	7	11
Total Declined	77	138
Total number of Cases Closed as Unsubstantiated, Withdrawn and Declined	114	163
Percentage of cases closed as unsubstantiated, withdrawn and declined.	91.2%	89.07%

(B) Limpopo *Completed Cases.

***Source IPID Annual Reports 2013-2014, and 2014-2015. 'Completion of cases refers to an investigation where the IPID has done everything within its ability to obtain evidence in order to make recommendations (criminal and disciplinary) on the case.**

Limpopo Province

2013-2014

2014-2015

Total Workload	439	456
Total Cases Completed	342	370
Percentage of Cases Completed	78%	81%

5. Eastern Cape. (A) *Closed Cases

*Source Annual Reports 2013-2014, and 2014-2015

2013-2014

2014-2015

Total Cases Closed	494	195
Total number of cases closed as unsubstantiated	222	71
Total Declined	166	85
Total number of cases withdrawn	22	7
Total number of Cases Withdrawn, Closed as Unsubstantiated and Declined	410	163
Percentage of cases closed as unsubstantiated, withdrawn, and declined.	82.99%	83%

(B) Eastern Cape Completed Cases

***Source IPID Annual Reports 2013-2014, and 2014-2015. 'Completion of cases refers to an investigation where the IPID has done everything within its ability to obtain evidence in order to make recommendations (criminal and disciplinary) on the case.**

Eastern Cape Province

2013-2014

2014-2015

Total Workload	1152	1375
Total Cases Completed	541	589
Percentage of Cases Completed	47%	43%

6. North West. (A) *Closed Cases

***Source Annual Reports 2013-2014, and 2014-2015**

2013-2014

2014-2015

Total Cases Closed	43	266
Total number of cases closed as unsubstantiated	4	59
Total Declined	25	129
Total number of cases withdrawn	7	12
Total number of Cases Closed as Unsubstantiated Declined or Withdrawn	36	200
Percentage of cases closed as unsubstantiated, withdrawn, and declined.	83.7%	75.18%

(B) North West Province Completed Cases

***Source IPID Annual Reports 2013-2014, and 2014-2015. 'Completion of cases refers to an investigation where the IPID has done everything within its ability to obtain evidence in order to make recommendations (criminal and disciplinary) on the case.**

North West Province

2013-2014

2014-2015

Total Workload	355	391
Total Cases Completed	319	336
Percentage of Cases Completed	90%	86%

(D) ANALYSIS OF DATA AND RECOMMENDATIONS

1. Free State

- a) The data in the above tables for the Free State province is consistent with the allegations that a high number of cases have been closed as substantiated, and/or closed without proper investigation, or completed without proper investigation.
- b) As per the data above, for the period 2013-2014, **the total number of cases closed at the Free State province was 780**, which is the highest number of closures at the IPID for the 2013-2014 period. In contrast, the province with the lowest closures was Western Cape with **18 cases** closed. **The total number of cases closed as Unsubstantiated at Free State province was 559**. The total number of cases closed as Unsubstantiated, Withdrawn and declined was 716. **The percentage of cases closed as unsubstantiated, withdrawn and declined is 91.79%.**
- c) Data for the 2013-2014 period shows that **out of a workload of 969 cases, 930 were completed – a percentage of 96%.** (761 assault cases were completed. Annual Report, page 45)
- d) Data for the **2014-2015 period shows the Free State with a total workload of 815 and total number of cases completed as 742. The percentage completion rate is 91%.** (536 assault cases were completed. Source Annual Report 2014-2015, page 71)
- e) The above data is consistent with reports to the Ethics Office that cases were closed as unsubstantiated, declined or withdrawn without proper investigation, and with the intention and purpose to show above average results for statistical purposes and to gain monetary incentives (bonuses) for good performance.

Recommendation:

- I. That an investigation commence to examine all the cases closed and completed at the Free State Province for the period 2013-2014 and 2013-2015 to determine the following:
 - (a) Whether the cases closed as unsubstantiated, withdrawn and declined were closed without proper investigation and whether cases completed were completed without proper investigation.
 - (b) If any cases were closed as unsubstantiated, withdrawn and declined, or completed without proper investigation, criminal charges to follow against all responsible officials, including [REDACTED]

2. Mpumalanga

- a) The data for cases closed and completed, declined and unsubstantiated is consistent with the report made by the whistle-blower. As per the data, during the period 2014-2015, **the number of cases closed in Mpumalanga was 639, and is recorded in the Annual Report as the province with the highest numbers of case closures.** It is evident as per the data that for the 2014-2015 periods there was an unusually high number of cases that were declined (283), withdrawn (108) and unsubstantiated (145).
- b) During the period 2013-2014, of the 158 cases that were closed, 149 cases were closed as unsubstantiated – a percentage closure of 98%.

c) It is evident as per the whistle-blower reports and the data on hand that the [REDACTED] is acting in contravention of the IPID Act and his conduct, which is a serious impropriety warrants an urgent and appropriate response.

Recommendation:

- II. That an investigation commence to examine all the cases closed and completed at the Mpumalanga Province for the periods 2013-2014 and 2013-2015 to determine the following:
- a) Whether the cases closed as unsubstantiated, withdrawn and declined, or completed where closed or completed without proper investigation.
 - b) If any cases were closed as unsubstantiated, withdrawn and declined, or completed without proper investigation, criminal charges to follow against all responsible officials, including [REDACTED]
 - c) The weight of the prima facie evidence that the [REDACTED] at Mpumalanga is in a corrupt relationship with repeat SAPS offenders, including SAPS officials from the [REDACTED]. As from the files produced by the whistleblower it is apparent that assaults and abuse of the public by members of the the [REDACTED] goes unchecked, and cases are completed without investigation by the IPID.

3. Northern Cape

- a) As per the data it is evident that for the period 2013-2014, 94% of all cases closed were closed as Unsubstantiated, Declined or withdrawn. The total number of cases closed in 2013-2014 was reported as 303. A total of 285 cases were closed as unsubstantiated, declined and withdrawn. The number of cases closed as unsubstantiated and declined warrants immediate investigation.
- b) It is evident that for the period 2014-2015, 91% of all cases were closed as unsubstantiated, declined or withdrawn. Of the total number of cases closed recorded as 254, 231 cases were closed as unsubstantiated, declined and withdrawn.
- c) For the period 2014-2015, Northern Cape had completed 359 out of 367 cases as completed – a rate of 98%.

Recommendation:

- III. That an investigation commence to examine all the cases closed and completed at the Northern Cape Province for the period 2013-2014 and 2013-2015 to determine the following:
- a) Whether the cases closed as unsubstantiated, withdrawn and declined where closed without proper investigation and whether cases were completed without proper investigation.
 - b) If any cases were closed as unsubstantiated, withdrawn and declined, or completed without proper investigation, criminal charges to follow against all responsible officials, including [REDACTED].

4. Eastern Cape

- a) The data is consistent with reports of irregular conduct made to the Ethics Office and shows that for the period 2013-2014 of the total number of cases closed (494), 82.99% of the cases were closed as unsubstantiated, declined or withdrawn.
- b) For the period 2014-2015, 83% of cases were closed as unsubstantiated, declined or withdrawn.

Recommendation:

- IV. That an investigation commence to examine all the cases closed and completed at the Eastern Cape Province for the period 2013-2014 and 2013-2015 to determine the following:
 - a) Whether the cases closed or as unsubstantiated, withdrawn and declined where closed without proper investigation and whether cases were completed without proper investigation.
 - b) If any cases were closed as unsubstantiated, withdrawn and declined, or completed without proper investigation, criminal charges to follow against all responsible officials, including [REDACTED]

5. Limpopo Province

- a) The data in the above tables show that for the period 2013-2014, 91% of the cases closed were closed as unsubstantiated, declined or withdrawn.
- b) During the period 2014-2015, 89% of cases were closed as unsubstantiated, declined or withdrawn. **138 cases were declined**, 14 were unsubstantiated, and 11 withdrawn out of a total of 183.
- c) For the period 2014-2015, Limpopo IPID completed 370 out of a total of 456. cases.
- d) During the period 2013-2014, Limpopo completed 342 cases out of a total workload of 439. A completion rate of 78%.

Recommendations

- VII. That an investigation to commence to examine all the cases closed and completed at Limpopo Province for the period 2013-2014 and 2013-2015 to determine the following:
 - a) Whether the cases closed as unsubstantiated, withdrawn and declined, or completed where closed or completed without proper investigation.
 - b) If any cases were closed as unsubstantiated, withdrawn and declined, or completed without proper investigation, criminal charges to follow against all responsible officials, including [REDACTED]

6. North West

- a) For the period 2013-2014, out of a total workload of 355, 319 cases were completed. This represents a completion rate of 90%
- b) For the period 2014-2015, 336 cases out of a total workload of 391 were completed – a percentage completion of 86%.
- c) During the period 2014-2015, out of the 266 cases closed by North West, 200 cases were closed as unsubstantiated, declined and withdrawn – a percentage of 75%.

Recommendations

- V. 1. That an investigation to commence to examine all the cases closed and completed at North West Province for the period 2013-2014 and 2013-2015 to determine the following:
 - a) Whether the cases closed as unsubstantiated, withdrawn and declined, or completed where closed or completed without proper investigation.
 - b) If any cases were closed as unsubstantiated, withdrawn and declined, or completed without proper investigation, criminal charges to follow against all responsible officials, including [REDACTED]

E. CONCLUSION

1. It is my submission that there exists a massive failure of corporate governance at the IPID. The current system has been rendered increasingly weak and dysfunctional with [REDACTED] displaying weak skills and expertise, and lacking courage and commitment to deal with issues of fraud, corruption, risk management, and whistle-blowing.
2. At the IPID, Programme 2- Investigations, currently operates completely under the radar of [REDACTED]. A report on compliance to the Standard Operating Procedures (SOP) for investigations has never been presented to the Ethics, Compliance and Risk Management Committee since the appointment of [REDACTED] in 2014.
3. The [REDACTED] had insisted that risks relating to the closure of cases without proper investigation be removed from the risk register.
4. Without proper oversight into investigations at the IPID, which is a corporate governance issue, senior management are able to continue without fear of being held accountable or responsible for their unlawful and irregular conduct.
5. There currently is no protection offered to whistle-blowers at the IPID, and [REDACTED] and Acting-Executive seem to display a weak understanding of the provisions of the Protected Disclosures Act, 26 of 2006, and are displaying contempt for their legal duties and obligations.

6. The fact that [REDACTED] holds the view that cases closed as unsubstantiated and or completed without proper investigation is not a governance issue warrants urgent attention and action.
7. The public, employees and the Audit Committee, are important stakeholders and need assurance that the IPID is an ethical organization and acts within its mandate and legal duties and obligations. The conduct of senior management at the IPID demonstrates that that the department has a weak and fragmented corporate culture wherein there is little application of ethical principles and Values.
8. Failure to protect and respond to whistleblowers is unlawful, and inconsistent with the established, signed and approved Whistle-blowing policy of the department.
9. It has become evident to me that the majority of the cases closed as unsubstantiated, declined or withdrawn and or completed without proper investigation are assault cases and constitutes a serious impropriety and failing on the part of senior management.
10. It is common knowledge that cases of assault reported to the IPID have become a source of irritation to some senior management as investigations cannot be concluded quickly- in order to achieve targets. Therefore some members of management developed the strategy to close assault cases as unsubstantiated, or to decline, withdraw or refer cases. The data for Free State as presented above illustrates this point clearly. In some instances, cases of assault are referred to SAPS for investigation.
11. It is my expressed view that management are fully aware of the injustice that is caused to members of the public when their cases are closed as unsubstantiated, declined or withdrawn without proper investigation. They know what they are doing is wrong, but continue to serve their own naïve and personal interests – rather than the public interest- and disrespecting the victim's right to dignity and human rights as enshrined in the Bill of Rights and the Constitution of the Republic of South Africa.
12. The result is that justice is denied and deviant police officials become more brazen, and become repeat offenders, as they know that the IPID is ineffective- and that cases against them would be eventually closed or completed without any action against them. In the meanwhile victims of police assault and brutality are denied justice and have to live with the pain, trauma and injury inflicted upon them.

13. Cases of assault, death and murder, completed or closed as unsubstantiated and without proper investigation is a contravention of the IPID Act and is a criminal act. Each case closed or completed without proper investigation is a single criminal count of defeating the ends of justice.
14. I am copying this report to the IPID Audit Committee, as it is my fervent hope that the Committee deals with the governance issues at hand firmly and appropriately, and holds the current IPID management to account for the colossal failure of corporate governance, weak risk management and poor internal controls. The fact that the core business of the IPID, which is investigations, is allowed to operate completely under the radar of corporate governance and the Ethics, Risk and Compliance Committee, should be a major red flag for the Audit Committee. The consequences of such an unprecedented corporate governance failure are clearly illustrated in this report. Behind the statistics provided in this report are hundreds of victims of assaults, murder and torture who are deprived of justice.
15. Organizations are legitimate to the extent that their activities are congruent with the goals and values of the social system within they function. Therefore, legitimacy is a condition that prevails when there is congruence between the organization's activities and society's expectations. It is my view that based on the facts illustrated above, serious introspection is required at the IPID, and a drastic overhaul of current operating methods, and suspension of dysfunctional senior management and incompetent staff is necessary and required, in order for legitimacy of the IPID to continue.

Yours sincerely,

Amar Maharaj

Ethics Manager

Independent Police Investigative Directorate (IPID)





ipid

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REPUBLIC OF SOUTH AFRICA

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MEMORANDUM

TO : THE OFFICE OF THE PUBLIC PROTECTOR
MS THULI MADONSELA

FROM : MR AMAR MAHARAJ (ETHICS MANAGER, IPID)

DATE : 22 AUGUST 2016

SUBJECT : REQUEST TO BROADEN SCOPE OF IPID INVESTIGATION TO INCLUDE REPORTING
PERIOD 2014-2015

Dear Adv. Madonsela,

**RE: REQUEST TO BROADEN SCOPE OF IPID INVESTIGATION TO INCLUDE REPORTING
PERIOD 2015-2016 - RELATING TO CASES CLOSED AS UNSUBSTANTIATED, REFERRED OR
DECLINED WITHOUT PROPER INVESTIGATION, AND CASES COMPLETED/ DECISION READY
WITHOUT PROPER INVESTIGATION.**

1. Further to my Memorandum to your Office dated 18 August 2016, my Office (the IPID Ethics Office) received a report from a senior manager relating to (1) cases closed as unsubstantiated, declined and referred without proper investigation, and (2) cases completed/ decision-ready without proper investigation for the 2015-2016 reporting period.
2. This report is made to your Office in good faith and shows the following:
 - a) That a criminal offence has been committed, is being committed and is likely to continue to be committed;
 - b) That the Executive Director of the IPID, [REDACTED] and [REDACTED] at the provinces and at National Office, amongst others, has failed, is failing and is likely to continue to fail to comply to the legal obligations that they are subject to;
 - c) That a miscarriage of justice has occurred, is occurring and is likely to continue occurring.

3. I have analyzed the information provided to me and have attached the documents herein as Annexures:
Annexure 1: Manner of Closed Cases per Province, 2015-2016 period.
Annexure 2: Manner of Disposal per Category of Cases Closed. 2015-2016 period.
Annexure 3: Decision Ready (Completed) Cases and the workload: 2015-2016
Annexure 4: Presentation to MANCO by the [REDACTED]
4. The Annexures above reveal the continued failure of senior management to act in accordance with their legal obligations, and within the mandate of the IPID Act, - for the period 2015-2016.
5. The Annexures above illustrate how immoral intent and purpose to show improved performance and annual results/statistics can lead to senior management compromising their Values of Integrity, Honesty, Trust and Commitment, and to embark on a devious and ultimately career ending path of criminal conduct wherein the public interest, and interests of the victims of police assault, torture, murder and death are totally disregarded.
6. My report to your Office last week recommended an investigation into unlawful conduct at the following provinces; Free State, Mpumalanga, Northern Cape, Eastern Cape, Limpopo and the North West.
7. It is my request that you expand your investigation to include the provinces of KwaZulu Natal, Gauteng and the Western Cape for the 2015-2016 period, as the figures recorded in these three provinces for the period 2015-2016 illustrate the spread of the reported impropriety and the collapse of corporate governance, including the internal systems and controls at the IPID. The data also illustrates how a devious system to close and complete cases without proper investigation - perfected at the Free State and the North West provinces - is being railroaded across the IPID.

A. Analysis of Annexures:

1. **Annexure 1: Manner of Closed Cases per Province, 2015-2016 period.**
2. **Annexure 2: Manner of Disposal per Category of Cases Closed. 2015-2016 period.**
 - a) Annexure 1 is a table that illustrates the ' Manner of Closed cases per province for the 2015-2016 reporting period and shows a staggering number of cases closed as declined, referred, indeterminate and unsubstantiated – without proper investigation.
 - b) The number of closed cases recorded at Kwa-Zulu Natal IPID illustrates a total contempt for the law and clear criminal conduct by IPID officials.. The number of cases closed as declined, Indeterminate, referred and unsubstantiated can be further illustrated as follows:

KwaZulu Natal: Cases Closed 2015-2016 period

Total cases closed	1150
Cases closed as Unsubstantiated	430
Cases closed as Referred	389
Cases closed as Indeterminate	157
Cases Declined	62
Unfounded	42
Withdrawn	11
Total cases closed as Unsubstantiated, Referred, Indeterminate, Declined, Unfounded and Withdrawn	1091
Percentage cases closed as Unsubstantiated, Referred, Indeterminate, Declined, Unfounded and Withdrawn	95%

c) Analysis of Data for KwaZulu Natal

- I. An unprecedented **95% of the cases closed in KwaZulu Natal were closed as Unsubstantiated, Referred, Indeterminate, Declined, Unfounded or Withdrawn.**
- II. The high numbers of cases closed as Referred also included assault cases, amongst others, and closed at the IPID provincial office and sent back to SAPS police stations where they have been filed. No investigation has taken place in many instances. A SAPS official reported that when he queried as to why no investigation had taken place on an assault matter, the IPID official was arrogant and offered no logical explanation as to why the file was Referred.
- III. It is evident that closure of cases have been split between Unsubstantiated, Referred, and Indeterminate and declined so as not to draw too much attention to what really is a serious impropriety and criminal conduct by IPID officials.

d) Western Cape and Free State. Closed Cases (2015/2016).

- I. It is evident as per the data herein that the high number of cases closed as unsubstantiated, declined and referred is cause for concern as it is apparent that little investigation does take place at the IPID

Western Cape

Free State

Total Cases Closed	363	Total Cases Closed	479
Unsubstantiated	112	Unsubstantiated	105

Declined	173	Declined	267
Referred	13	Referred	48
Total Cases closed as unsubstantiated, declined and referred	298	Total Cases closed as unsubstantiated, declined and referred	420
Percentage cases closed as unsubstantiated, declined and referred	82%	Percentage cases closed as unsubstantiated, declined and referred	88%

- e) The Data as per Annexure 1 illustrates a disturbing pattern of closing cases as unsubstantiated, declined and referred. **The total number of cases closed across all provinces for the 2015-2016 period is 3050. The cases closed as Unsubstantiated (907), Declined (1041), and Referred (541) totals 2489 cases. The percentage total of cases closed as unsubstantiated, declined and referred for the period 2015-2016 is 82%.**

B. Annexure 3. Decision Ready (Completed) Cases and the workload: 2015-2016

- a) The IPID in 2015-2016 now refers as 'Decision Ready' cases, to cases which were previously referred to as Completed Cases. As per the Annual Report 2015-2016, *'Decision ready refers to investigation where the IPID investigator has conducted quality investigations and obtained all necessary evidence to enable the National Prosecuting Service (NPS) to make a decision whether to prosecute or not.*
- b) As per Annexure 3, the IPID has completed an astonishing 7407 cases.
- c) Northern Cape, North West, Free State, Eastern Cape and Limpopo province are once again recorded as 'top performers' and such performance is illustrated in the following table:

Provinces	Total Workload	Total Cases Completed	Percentage of Cases Completed
Northern Cape	253	232	92%
North West	398	342	86%
Free State	749	622	83%
Eastern Cape	1377	1087	79%
Limpopo	462	398	82%

- d) Consistent with the IPID definition of decision ready cases as above, 7407 have been completed as decision ready, wherein quality investigations have been completed and the NPS is able to make a decision as to whether to prosecute or not.

- e) Consequently, 7407 should have been sent to the NPS. However, this is not the case as many cases have been completed without proper investigations and will not be sent to the office of the NPS. Rather they will remain at the IPID offices until they are closed as unsubstantiated, declined or withdrawn, or closed as 'Indeterminate' as in KwaZulu Natal.

C. Annexure 4. Presentation to MANCO by the [REDACTED]

- a) Annexure 4 is a presentation on the annual performance of Programme 2, Investigations for the period 2015-2016, made to members of the IPID Management Committee (MANCO) which comprises The IPID Executive Director, Provincial Heads, and other members of senior management.

- b) It is apparent that the data for KZN in Annexure 4, shows the following:

KZN Decision Ready

Workload	2037
Decision Ready	1491
Percentage of Decision Ready	73%

- c) The Annual Report shows the following decision ready data for KZN for the 2015-2016 period:

KZN Decision Ready

Workload	1800
Decision Ready	807
Percentage of Decision Ready	45%

- d) It is important to note that the decision ready cases as per the data presented by [REDACTED] have been revised as a result of a query from external auditors (AG).
- e) In total 684 cases have been removed as they were completed without proper investigation as a result of a directive by the [REDACTED] for KZN to engage in a 'special closure/completion' of files.
- f) The [REDACTED] is now in a quandary as to what to do with the cases and is considering various options including closing the files as unsubstantiated, referred, declined or withdrawn.

Yours Sincerely,

Amar Maharaj

Ethics Manager

Independent Police Investigative Directorate (IPID)

[REDACTED]

[REDACTED]

Date: 22 August 2016